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Attorney Docket No.: P-10675-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): GURMAN, Gabriel et al.

Serial No: 10/599,598

Examiner:

Bryan Lin

Filed: April 03, 2005

Group Art Unit:

Title: APPARATUS AND METHOD FOR THE DETECTION OF ONE LUNG
INTUBATION BY MONITORING SOUNDS

RENEWED REQUEST FOR STATUS UNDER 37 CFR 1.42

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision regarding the "Correction of Application Papers" filed April 14, 2008 (copies of which is enclosed), Applicants hereby submit herewith the following:

An executed Declaration and Power of Attorney executed by the Legal representative of the deceased inventor, Cohen Arnon, making reference to the above-identified application, and in compliance with 37 C.F.R. 1.42.

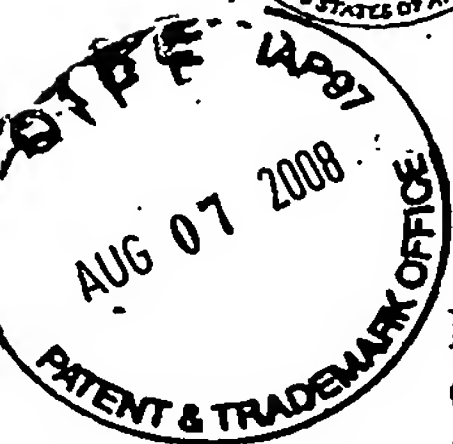
A response is due September 9, 2008. Accordingly, this response is being timely filed. Please charge any fees associated with this paper to deposit account No. 50-3400.

Respectfully submitted,

Naim Shichrur
Agent for Applicant(s)
Registration No. 56, 248

Dated: August 5, 2008

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In re Application of GURMAN et al
U.S. Application No.: 10/599,598
PCT Application No.: PCT/IL2005/000369
Int. Filing Date: 03 April 2005

Priority Date Claimed: 04 April 2004

Attorney Docket No.: 1054/17

For: APPARATUS AND METHOD FOR THE
DETECTION OF ONE LUNG INTUBATION
BY MONITORING SOUNDS

DECISION

This is in response to applicant's "Correction of Application Papers" filed 14 April 2008, which is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 03 April 2005, applicant filed international application PCT/IL2005/000369, which claimed priority of an earlier United States application filed 04 April 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 13 October 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 October 2006.

On 03 October 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 October 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 November 2007, applicant filed a declaration executed by four of the five named inventors.

On 20 March 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration was not executed by the fifth inventor.

On 14 April 2008, applicant filed the present request for status under 37 CFR 1.42.

DISCUSSION

The present request for status states that the fifth inventor Arnon Cohen is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 06 November 2007 is not executed by the legal representative of the deceased inventor and does not contain the information required by 37 CFR 1.497(b)(2).

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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